

# CUMBERLAND COUNTY DISTRICT ATTORNEY'S OFFICE – USE OF FORCE POLICY FOR LAW ENFORCEMENT OFFICERS

## I. Purpose

To provide officers with guidelines on the limits of officer authority and the use of deadly and non-deadly force and its reporting requirements.

## II. Policy

This agency recognizes and respects the value and integrity of each human life. In vesting law enforcement officers with the lawful authority to use physical force to protect the public welfare, a careful balancing of all human interests is required. At times officers are confronted with situations in which control is required to affect an arrest, to protect the public or to ensure officer safety. Every attempt will be made to achieve control through advice, warnings, or persuasion. When resistance to police action or a threat to life or safety is encountered, however, law enforcement officers have a duty to exercise their authority and to use physical force to protect themselves and the public they serve. An officer may use only that physical force that the officer reasonably and actually believes is necessary to effectively bring an incident under control while protecting the officer or another, including the use of an electronic weapon and less-than-lethal munitions, if applicable.

Officers will make every attempt to de-escalate a situation before using force, but once force is required, officers will avoid using excessive force. The purpose of this policy is to provide guidance to officers on justified and reasonable applications of force to include use of force reporting. This policy must be read and applied in conjunction with other departmental policies on using force, such as less-lethal equipment.

The use of force, whether deadly or non-deadly, shall at all times be in accordance with the requirements of Title 17-A. All officers are responsible for being familiar with Title 17-A MRSA § 15, 106 (6) 107, 108, 110 and all other applicable statutes, as well as Chapter 2 of the Maine Law Enforcement Officer's Manual.

Officers must abide by this policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees.

## III. Definitions

**Actual Belief:** A subjective state of mind in which the actor holds a genuine or honest conviction.

**Bodily Injury:** Physical pain, physical illness or any impairment of physical condition (17-A M.R.S. §2(5)).

**Canine (K-9):** A department authorized dog, the training and certification of which has included handler protection and suspect apprehension. This is considered the use of non-deadly force (17-A M.R.S. §101(5)).

**Chemical Agents or OC:** Chemical mace. Oleoresin Capsicum (commonly referred to as "pepper spray" or "OC" or any similar substance composed of a mixture of gas, chemicals, inflammatory agents, irritants or similar substances that has or is designed to have a disabling effect upon human beings. Incapacitating agents are designed to produce temporary physiological or mental effects, or both, which will render individual's incapable of concerted effort. Chemical Agents can be in the form of a liquid, gas or powder. This is considered the use of non-deadly force (17-A M.R.S. § 101(5)).

**Command Presence:** The ability to speak clearly and authoritatively, issuing concise commands using a tone that reflects control and professionalism.

**Compliance Techniques:** The methods of arrest, restraint, and control that include manipulation of joints, pressure point applications and take-down techniques to control an aggressive offender.

**Deadly Force:** Physical force, which a person uses with the intent of causing, or which the person knows to create a substantial risk of causing, death or serious bodily injury. Except as provided in 17-A M.R.S. §101(5), intentionally, knowingly, or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force. (17-A M.R.S. §2(8))

**De-escalation:** the use of verbal or non-verbal actions and tactics, whenever feasible and possible, preceding a potential force encounter. This may include, but is not limited to, the use of distance, cover, tactical re-positioning, and communication in order to stabilize the situation, reduce immediacy of the threat, and allow for more time and options for resolution. The goal of these tactics is to slow down the situation, allowing access to additional resources (e.g., personnel, supervisors, specialized officers or teams) that may mitigate the intensity of the encounter, help gain voluntary compliance, or otherwise allow for control of the situation and the safety of the officer, subject and others without the need to use additional force.

**Electronic Weapon:** A portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to have a disabling affect upon human beings. (The use of an electronic weapon is the use of non-deadly force.)

**Excessive Force:** Physical force that is unreasonable or unnecessary or inappropriate for the particular circumstances. Determining whether the application of physical force was reasonable and appropriate requires consideration of the severity of the crime, the nature and extent of the threat posed by the suspect, the degree to which the suspect resists arrest or detention, and any attempts by the suspect to evade arrest by flight. Facts or circumstances unknown to the officer may not be considered later determining whether the force was justified.

**Excited Delirium Syndrome (ExDS):** A medical disorder generally characterized by observable signs, symptoms and behaviors that may appear together, including extreme mental and physiological excitement, intense agitation, hyperthermia (elevated body temperature) often resulting in nudity, hostility, exceptional strength, endurance without apparent fatigue, and unusual calmness after restraint accompanied by a risk of sudden death.

**Firearm:** Any weapon whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun, or shotgun. Any weapon that can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm. (17-A M.R.S. §2(12-A)).

**Impact Weapon:** A device or weapon designed for use by an officer in close quarter physical defense of the officer or another and/or control of an aggressive offender. Examples of an impact tool are a collapsible baton, a flashlight, or other similar device.

**Individual Actions:** As a part of the Situational Use of Force assessment process, the categories below can be used to describe an individual subject's behavior:

- **Cooperative:** Compliant and willing to obey, posing minimal threat to the officer(s) or others.
- **Resistive (Passive):** Non-compliance, defiance or failure to cooperate with lawful verbal direction, but offering no resistive or evasive bodily movement to prevent the officer's attempt at physical control (e.g., a passive demonstrator, a person going limp, prone or refusing to stand up, lie down, enter / exit vehicle, leave the scene, etc.).
- **Resistive (Active):** Physically resistive or evasive bodily movement, including but not limited to muscle tension, bracing, pushing, pulling, flailing or flight, to avoid

or defeat an officer's attempt at physical control, or to prevent being taken into or retained in custody. Verbal statements, defiance and belligerence alone do not constitute active resistance.

- Active Aggression: A threat of an assault, coupled with any pre-attack indicators (e.g., clenched fists, flanking, fighting stance, etc.) and the present ability to carry out the threat or assault, reasonably indicating that an assault or injury to the officer or another person is imminent.
- Assaultive (High Risk): An overt act of an assault, or highly agitated or combative actions or behavior posing an imminent threat of injury to the officer or another. Such actions may include but are not limited to hostile physical or active resistance, kicking, punching, or spitting, whether an assault occurs or not.
- Life Threatening: Actions or behavior that could cause death or serious bodily injury, potentially justifying the use of deadly force.

Less Lethal Force: Response options that are not designed or used with the intention of causing (and have less potential for causing) death or serious bodily injury, including but not limited to chemical agents, electronic weapon, noise/flash diversionary device, or impact projectiles such as those fired by a PepperBall launcher, 40mm launcher; etc.

Less Lethal Grenade: A weapon designed to expel projectiles, including chemical agents and smoke. This is considered the use of non-deadly force

Less-than-Lethal Munitions: A low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy that has been designed to have a disabling effect upon human beings. (See Appendix 2) The use of a less-than-lethal munitions weapon is the use of non-deadly force.

Non-deadly Force: Any physical force which is not deadly force. (17-A M.R.S. §2(18))

Officer Presence: The presence of a law enforcement officer who is willing and able to handle a situation.

Officer Response Options: Choices available to an officer concerning the type of force to be used in response to a given situation, including but not limited to command presence, physical presence, voice commands, compliance techniques, takedowns, electronic weapons, chemical agents, impact weapons, canines, and deadly force.

Physical Force: The actual exercise of some form of kinetic energy (one person to another) of such a nature as to create an imminent and substantial risk of causing bodily harm.

Reasonable Belief: When facts or circumstances provided to or known to the law enforcement officer are such as to cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.

Serious Bodily Injury: Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health. (17-A M.R.S. §2(23))

Situational Use-of-Force Options: A dynamic process by which an officer assesses, plans, and responds to situations that threaten public and officer safety and requires the use of force and control. The process includes an assessment of the situation and circumstances immediately confronting the officer, including but not limited to the severity of the crime or suspected offense, the level and imminence of any threat to the officer(s) or public, the level of resistance, the risk or apparent attempt to flee or escape; the suspect's behavior and individual actions (cooperative, resistive (passively or actively), assaultive / high risk, or life-threatening (posing a threat of death or serious bodily injury), and the officer's perceptions and tactical considerations. Based on this assessment, the officer selects from the available

officer response options while continuing to evaluate the evolving situation, adapting a plan and actions that are appropriate and effective in bringing the situation under control.

Weapon of Availability: Flashlights, vehicles, tools, implements, objects or other devices that are not necessarily issued, intended or normally authorized as weapons, but that *may* be used in extraordinary circumstances when their use would be justifiable and no other adequate or suitable defensive tool is immediately available.

#### **IV. Procedures**

- A. The use of force shall be restricted to circumstances specified by law when necessary to accomplish a police task. No law enforcement officer is entitled to use force to effectuate a police purpose without first being trained in the use of that force.
- B. Officers shall periodically be issued up-to-date copies of the Maine Criminal Code (Title 17-A). Additionally, officers must be issued copies of this directive and instructed in its application prior to being authorized to carry any weapon.
- C. Non-deadly Force

An officer is justified in using a reasonable degree of non-deadly force upon another person when the officer reasonably believes it is:

- 1. Necessary to effect a lawful arrest or prevent an escape from a lawful arrest;
- 2. Necessary to defend the officer or a third person from what is believed to be the imminent use of non-deadly force against the officer or a third person; or
- 3. Necessary to restrain a person who the officer reasonably believes is about to commit suicide or inflict bodily injury upon the officer;
- 4. If an officer knows that an arrest or detention is illegal, then no use of force is justified.

- D. Deadly Force

An officer is justified in using deadly force only when the officer reasonably believes it is necessary:

- 1. To defend the officer or a third person from what the officer reasonably believes is the imminent use of deadly force. If feasible, the officer must issue a warning prior to using deadly force, e.g., "drop the weapon," or a similar instruction to cease the threatening behavior.
- 2. To effect an arrest or prevent the escape of a person and the officer reasonably believes that:
  - a. the person has committed a crime involving the use or threatened use of deadly force, or is using a dangerous weapon in an attempt to escape; **and**
  - b. there is an immediate danger that the person to be arrested will cause death or serious bodily injury to the officer or a third person unless apprehended without delay; **and**
  - c. the person against whom the force is being used has reason to know the officer is a law enforcement officer.
  - d. The force used must be a reasonable necessity to prevent the escape. In other words, there must be no other means reasonably available to prevent the escape.
  - e. Officers should be aware that the mere fact that a person is a "fleeing felon" does not justify the use of deadly force.
- 3. Strangle and Choke Holds and any other similar holds that restrict the ability to breath or the flow of blood to the brain are prohibited except when the officer

reasonably believes there is a threat of an imminent use of deadly force to himself or herself or to a third party:

- a. the use of these techniques is subject to the deadly force reporting requirement to the Investigation Division of the Maine Attorney General's Office.

E. Medical Aid

F. Whenever an officer uses a degree of force, either deadly or non-deadly, which results in injury, the officer shall ensure that medical aid is rendered as soon as is practicable. No officer is to provide any level of medical aid which the officer is not trained to administer. If necessary, the injured person should be transported to a hospital, either by an officer or by ambulance in cases of more serious injury. If the individual refuses medical attention this must be noted on the Use of Force Report.

**V. Situational Use of Force**

The dynamics of all encounters are different, and it would be impossible to attempt to categorize and define all the levels of control appropriate in any given situation. The degree of control employed, however, should be in direct relationship to the amount of resistance employed against the officer or the level of threat that a person poses to the officer or others. The use of control may be in the form of advice, warnings, persuasion, verbal commands, passive control, the use of OC spray, physical contact, the use of non-lethal weapons, or the use of deadly force. The situational use of force options should be:

Verbal Commands: The use of verbal directions to control or dictate an individual's actions.

Passive Control: Light, physical touching to guide a subject's movements and overcome low levels of resistance.

Compliance Techniques: Actual, physical bodily contact with a subject and forcibly controlling a subject until resistance is overcome. This includes control and defensive tactics, striking a subject with your body, using OC spray, using electronic control devices or taking a subject to the ground. These tactics are the use of non-deadly force.

Defensive Tactics: The use of impact weapons to gain compliance and control. This includes the baton or the pepperball system. This also includes the pointing of a firearm at a person. All of these tactics are the use of non-deadly force.

Deadly Force: Force that may cause death or serious bodily injury including: the discharge of a firearm or the delivery of a strike to a subject's head with an impact weapon.

This section shall not be used to suggest or require officers to use or start at a level of control that is insufficient to address the level of resistance or threat that the officer is encountering.

Situational force options in correlation with the individual's actions are diagrammed in Appendix One.

**VI. Deadly Weapons**

A. Firearms

Law Enforcement Officers shall only carry firearms and ammunition authorized by this agency. All sworn personnel will be issued a copy of this Standard Operating Procedure and be specifically instructed in the use of force section before being allowed to carry a firearm for this agency. All weapons must be inspected by a firearms instructor approved by this office prior to being issued to an officer.

1. Permissible Use of a Firearm Issued or Authorized by this Agency

- a. For training at an approved range.
  - b. To kill an animal that humanely requires its removal from further suffering when other dispositions are impractical;
  - c. As a means of applying deadly force as defined by state law.
2. Prohibited Use of a Firearm
- a. As a warning shot;
  - b. At or from a moving vehicle, unless the circumstances justify the use of deadly force;
  - c. When there is a clear and obvious danger of hitting bystanders, who may be in or near the line of fire;
  - d. As an impact weapon.
3. Reporting the discharge of a firearm

Whenever an officer discharges an agency firearm, other than in training or dispatching an animal, a use of force report shall be filed.

## **VII. Non-Deadly Weapons**

### **A. Oleoresin Capsicum (O.C.) Spray**

1. Officers shall carry only Department-issued O.C. Spray canisters. O.C. Spray may only be carried by officers who have been trained in its proper use. O.C. Spray is the only authorized non-impact weapon to be used in the application of non-deadly force.
2. The use of O.C. Spray is the use of non-deadly force. Therefore, it should be used only in those situations in which the use of non-deadly force is justified.
3. A Use of Force Report must be filed whenever O.C. Spray is used against a person.
4. An officer should allow a person who has received a dose of O.C. Spray to decontaminate as soon as possible after the use of the spray. Decontamination should not wait until the person is transported to jail. At times, an officer may find it impractical, for safety reasons, to decontaminate an individual at the scene of an incident. In such a case, an officer should decontaminate the person as soon as possible after the person's removal from the scene. The officer should explain in the Use of Force Report the fact that decontamination was not possible at the scene and the reason it was not possible.

If a person requests medical treatment after being sprayed, the officer shall make such treatment available as soon as is practicable after decontamination. O.C. Spray will not be used to threaten, to elicit information or persuade people to comply with orders, nor will it be used on people who are handcuffed, secured and properly in custody.

However, handcuffed persons may be sprayed after being warned and under the following conditions:

- a. During an attempt to or damaging department property; or
- b. During an attempt to or injuring an officer and/or a third party.

### **B. Baton**

Only issued or authorized batons will be carried, and batons shall not be altered in any manner (i.e., increase in weight). Sound judgment must be exercised in the use of the baton due to its potential for causing death or serious bodily injury. The head, face and neck area of a person shall not be targeted when the baton is used. Intentionally striking a person in the head with a baton shall be considered the use of deadly force.

When the use of the baton is necessary, the guidelines are as follows:

1. The baton should not be raised above the head to deliver a blow; overhead swings of the baton are easily blocked, enhance the possibility for the baton to be taken away from the officer and used against the officer.
2. Blows from the police baton shall be made in a sharp and deliberate motion and shall be directed to the appropriate target area, as follows:

LEVEL ONE AREAS - are targets selected for blocking and striking, which are the least likely to result in serious injury to a person; whenever possible, officers shall select a minimum level of force target when blocking or striking a suspect. These targets include forearm, buttocks, thigh, shin, Achilles tendon, instep, and lower abdomen.

LEVEL TWO AREAS - may be selected when blocks or strikes to a Level One blocking or striking target fail to conclude an attempted assault. Level Two targets include: upper arm, elbow joint, inside of wrist, back of hand, knee joint, shoulder, shoulder blades, rib cage, collarbone, and upper abdomen.

LEVEL THREE AREAS - should be selected only when blocks or strikes at Level One or Level Two fail on the first or second try, or do not correspond to the level of danger perceived. Officers must have reason to fear that they are in danger of great bodily harm or death if Level Three target areas are used to block or strike in self-defense. Level Three targets include: bridge of nose, temple, eyes, ears, jaw, upper lip, face, back of head, hollow behind the ear, throat, back of neck, solar plexus, groin, kidney, spine, and tail bone

3. Although the baton is an efficient and necessary weapon, it is not intended to replace the service sidearm. If deadly force is used or threatened and human life is imminently endangered, deadly force should be considered as a countermeasure. The baton may only be used by officers who have been properly trained in its use.

C. Flashlights

1. In such circumstances, when the flashlight is already in hand, it may be used defensively to fend off an attack.
2. Flashlights carried on duty will be no larger than a 4-cell flashlight.
3. Sound judgment must be exercised in the use of the flashlight due to its potential for causing death or serious bodily injury. The head, face and neck area of a person shall not be targeted when the flashlight is used. Intentionally striking a person in the head with a flashlight shall be considered the use of deadly force.
4. Although an officer justifiably may use any available tool as a weapon in emergencies, he shall make every reasonable effort to use approved weapons when lawfully required.

## **VIII. Less than Lethal Weapons**

### **A. Guidelines for Use of Less than Lethal munitions**

1. **Less than lethal munitions may be used as one of many weapons if consistent with the situational use of force model.**
2. **All uses of less than lethal munitions shall be consistent with this agency's policy on use of force and principles of situational force.**
3. **Use of less than lethal munitions below that of deadly force.**
4. **Less than lethal munitions are primarily designed for use against subjects who appear to pose a threat of death or serious bodily injury to themselves or others.**
5. **There is a broad range of scenarios in which use of an impact projectile may be justified. Major factors to consider when deciding whether such use is justified include the following:**
  - a. **Seriousness of any crime committed by the individual;**
  - b. **Whether the individual is armed and, if so, the potential lethality/threat;**
  - c. **Propensity of the individual to be violent;**
  - d. **The urgency of the situation and potential impact of actions that may be committed by the suspect;**
  - e. **The ability of officers to use an impact projectile against the suspect in accordance with policy and training;**
  - f. **The potential for collateral damage to officers, other persons, or property should the impact projectile incapacitate the suspect (e.g., the suspect is or is allegedly holding a triggering device connected to explosives or other destructive devices).**
6. **Deployment of less than lethal munitions should be at the direction of a line supervisor or another senior officer unless it is reasonably likely that failure to take immediate action would result in injury, death, or serious property damage.**
7. **Only officers who have met this agency's training requirements for use of the impact projectile are permitted to carry or deploy less than lethal munitions.**

### **B. Deployment, Strike Areas, and Follow Up**

1. **Specific deployment weapons shall be designated for deployment of less than lethal munitions and shall be definitively marked by paint or other conspicuous distinguishing features as authorized by this agency. These weapons shall not be used for any other purpose, shall be loaded only with less-than-lethal munitions, and shall be kept only by authorized personnel in a manner designated by the agency.**
2. **When possible, officers should inform other police personnel in the immediate vicinity that impact projectiles will be deployed in order that the shot will not precipitate the use of firearms by other officers.**
3. **Less than lethal munitions shall be directed at suspect target areas based on the circumstances at hand, established safety priorities, the exigency of the situation, and the level of force that is authorized.**
4. **Suspects who are struck with a projectile should be restrained as necessary and transported to a medical facility for examination.**
5. **Use of less than lethal munitions is a use of force and is subject to the same reporting and investigative policy requirements as other types of force incidents.**

**C. Training**

1. **Officers authorized to deploy less than lethal munitions shall receive designated training and certification as required by this agency and shall re-qualify with the weapon as designated by this agency.**
2. **Officers shall receive agency-authorized training specifically designed to simulate actual deployment situations and conditions to enhance officers' discretion and judgment in using less than lethal munitions in accordance with this policy.**

**IX. Electronic Weapons**

**Only law enforcement officers who have successfully completed this agency's approved training shall be authorized to carry and use Electronic Weapons. Training shall be conducted annually, by a certified instructor.**

**A. Electronic Weapon Readiness**

1. **The Electronic Weapon will be carried in a manner consistent with agency policy and training.**
2. **The Electronic Weapon shall be carried fully armed with the safety on in preparation for immediate use.**
3. **Only agency approved battery power sources will be used in the Electronic Weapon.**
4. **No changes, alterations, modifications, or substitutions shall be made to an agency Electronic Weapon.**
5. **At the beginning of each tour of duty, officers shall perform a function check on the Electronic Weapon. The functions check shall be completed in a safe manner consistent with agency training. Any malfunctions with the Electronic Weapon shall be immediately reported to a supervisor. The defective Electronic Weapon shall immediately be placed out of service.**
6. **Only agency-approved cartridges shall be used.**

**B. Permitted Use of an Electronic Weapon**

1. **When physical force is justified against a suspect who is actively resisting arrest or exhibiting active aggression through words or actions towards an officer or a third party actually present. The suspect must pose an immediate threat to the officer or third party.**
2. **To incapacitate a person who poses a threat of physical injury to the officer/herself.**
3. **Against aggressive animals that pose a threat of physical injury to an officer or another person.**
4. **During agency authorized training programs or demonstrations.**

**C. Prohibited Use of an Electronic Weapon**

1. **Against a person who the officer knows or reasonably believes to be pregnant unless deadly force is justified.**
2. **Against a person who is at an elevated location where a fall could cause serious bodily injury or death unless deadly force is justified.**
3. **Against an operator of a motor vehicle if the use of an Electronic Weapon could reasonably result in the uncontrolled movement of a vehicle unless deadly force is justified.**

4. **Against a person who is near a flammable gas or a liquid.**
5. **In drive-stun or touch-stun mode as a prod or escort device.**
6. **To rouse an unconscious, impaired, or intoxicated person.**
7. **To experiment on a person or allow a person to experience the Electronic Weapon, even if the person requests it, when the use would not otherwise be allowed by this policy. This does not apply to voluntary training exposures or demonstrations as authorized by the CLEO on a case-by-case basis.**
8. **For any illegal purpose, e.g., coercion, torture, etc.**

**D. Deployment of an Electronic Weapon**

1. As with all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for injury when using an electronic weapon against children, the elderly, persons of small stature irrespective of age, or those who the officer has reason to believe are pregnant, equipped with a pacemaker, or in obvious ill health.
2. Upon firing the device, the officer shall energize the subject the least number of times, and no longer than necessary to accomplish the legitimate operational objective. The electronic weapon shall not be energized without an observation period between firing cycles on any individual subject.
3. The subject should be secured as soon as practical while disabled by electronic control to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
4. In preparation for firing, the electronic weapon shall be pointed in a safe direction; The safety/power mechanism switched “on”, and then aimed. Center mass of the subject’s back should be the primary target where reasonably possible; front lower center mass, or the legs, are secondary targets.
5. Fixed sights should be used as the primary aiming device, and the laser dot as the secondary aiming device.
6. The device may also be used in certain circumstances in a “drive stun” mode. This involves pressing the unit against an appropriate area of the body based on training. It is important to note that when the device is used in this manner, it is:
  - a. Primarily a pain compliance tool due to a lack of probe spread.
7. The electronic weapon shall be pointed at the ground in a safe direction with the switch mechanism turned off during loading, unloading, or when handled in other than an operational deployment.

E. All officers are to be aware of police canines being present on scene. Except in the most exigent circumstances, the electronic weapon shall not be deployed if a canine is being actively employed at the scene.

**F. Post Deployment Aid Given**

1. The electronic weapon probes may be removed from the subject by the officer after the subject is restrained following procedures outlined in training. Officers shall use universal precautions against potential biohazard contamination when removing darts from a person.
2. Officers shall attempt to take photographs of the affected area **before and after** the probes are removed.

3. All individuals who have been **incapacitated** by an electronic weapon shall be evaluated by EMS Personnel prior to being transported to jail. Officers shall take particular notice, and relay that specific information to treating medical personnel of any person who:
  - a. Does not appear to recover properly after being exposed to an electronic weapon.
  - b. Has been exposed to more than (3) three cycles.
  - c. Has had more than (1) one electronic weapon effectively used against him or her in any given incident,
  - d. Has been subjected to a continuous energy cycle of 15 seconds or more, or
  - e. Has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to electronic weapon exposure,
  - f. Received secondary injury as a result of falling, etc.
4. The following persons shall be transported to a medical facility for evaluation and removal of probes following exposure to an electronic weapon. Any person who:
  - a. Requests medical attention for removal,
  - b. Is hit in a sensitive area (e.g., face, head, neck, female breast, groin, or barb embedded into bone),
  - c. From whom officers have difficulty removing the probes (owing to probe or barb separation),
  - d. Does not appear to recover properly after being exposed to an electronic control weapon.
5. When the device has been used operationally, the officer shall collect and dispose of the spent cartridge, wire leads, and probes in a biohazard container using universal precautions.
6. In the event of a device failure, the officer shall collect the cartridge, wire leads, and probes as evidence.

## **X. Rendering Aid**

Officers shall monitor an individual in the officer's custody for evidence of injury or medical distress.

Officers are required to request Emergency Medical Services (EMS) any time an individual in custody:

1. Requests medical aid following a use of force,
2. Requests medical aid for an injury,
3. Displays signs or symptoms of medical distress, including but not limited to those associated with drug or alcohol overdose, excited delirium, or positional asphyxia and will immediately render appropriate medical aid;
4. Does not appear to properly recover following the use of less lethal force and, or
5. Displays signs or symptoms of serious bodily injury.

Officers are required to offer medical aid for minor injuries to an individual in custody, unless such aid is knowingly refused by the arrestee and the refusal shall be documented in a report.

## **XI. Duty to Intervene and Report**

Any officer who witnesses another officer using what he/she reasonably believes to be an unreasonable and/or unnecessary use of force, that is in itself a substantial deviation from known standards of law enforcement training, has a duty to intervene to protect the safety and the rights of the subject involved. Any officer who witnesses use of force that the officer believes to be unreasonable, unnecessary or a substantial deviation from known standards of law enforcement training, shall report those observations to the officer's supervisor as soon as practicable, and will complete a written report on the incident as soon as practicable.

A. **Reporting Use of Force**

Officers applying force as outlined above shall complete a Use of Force Report and submit it to their supervisor. The supervisor shall review the incident and if it appears the force applied was not appropriate, the supervisor shall conduct the necessary investigation and immediately notify the Chief Law Enforcement Officer. All reports must be completed prior to the end of shift. *(It should be noted that the dispatching of an injured animal does not constitute deadly force and does not require a Use of Force Report, but a Firearms Discharge Report or memorandum shall be forwarded to the Chain of Command for review and approval)*

- B. All visible injuries to a suspect or an officer, whether or not the injuries are caused by the use of force, must be photographed. The photos must be attached to the Use of Force Report. If a person alleges an injury, but it is not visible to the officer, photograph the area that the person claims is injured. Document the allegation and the fact that no injury was visible.
- C. The officer who has used force in the incident shall *complete all blank spaces on the Use of Force Report. The officer shall make a diligent attempt to obtain all information necessary to complete the report. If information remains unknown to the officer after such diligent attempt, the officer shall mark such space "unknown".* The report shall include a description of the incident, the particular application of physical force, and first-aid or medical services rendered. The officer will attach a copy of the arrest report narrative to the Use of Force Report. Upon completion of the report, it shall be forwarded to the on-duty patrol supervisor. An officer who is a witness to a use of force must complete a supplement narrative and attach it to the original Use of Force report. The Use of Force Report must be completed and submitted to a supervisor by the end of the shift in which the force is used.
- D. The supervisor shall review the report for accuracy and detail and will approve the Use of Force Report. The report will be forwarded through the Chain of Command to the Chief Law Enforcement Officer for review and approval.
- E. After review of the report by the CLEO, if it is believed that the officer may have engaged in criminal conduct, the CLEO will notify the District Attorney or the Office of the Attorney General, and the Director of the Maine Criminal Justice Academy.

**XII. Annual Review**

- A. The CLEO or designee will maintain a file of all departmental Use of Force Reports and prepare an annual report on the use of force occurrences no later than January 31<sup>st</sup> of the following year. The report should identify any trends in the use of force by agency personnel, training needs, equipment needs, or policy revisions.

PER ORDER OF: \_\_\_\_\_

Chief Executive Officer

# Appendix One

## Situational Use of Force Options

### ***Individual's Actions*** **Cooperative**

#### *Officer's Options*

- Professional Presence
- Verbal & Nonverbal
- Control Techniques

### ***Individual's Actions*** **Passive Resistive**

#### *Officer's Options*

- Come-along Techniques
- Compliance Techniques

### ***Individual's Actions*** **Active Resistive**

#### *Officer's Options – Nondeadly Force*

- Come-Along Techniques
- Compliance Techniques
- Strikes
- O/C Spray or Chemical Weapons
- Electronic Weapons
- Impact Weapons
- Police Canines
- Weapons of Availability

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### ***Individual's Actions*** **Assaultive/High Risk**

#### *Officer's Options – Nondeadly Force*

- Compliance Techniques
- Strikes
- O/C Spray or Chemical Agents
- Electronic Weapons
- Impact Weapons
- Police Canines
- Weapons of Availability

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### ***Individual's Actions*** **Life Threatening/Serious Bodily Injury**

#### *Officer's Options – Deadly Force*

- Firearms
- Impacting Vital Areas
- Other Incapacitating Force Methods
- Weapons of Availability

# Appendix Two

## Maine Criminal Justice Academy Board of Trustees Approved Less-Than-Lethal Munitions

### Manufacturer: **CTS – Combined Tactical Systems:**

12 gauge – Fired from a 12-gauge shotgun:

1. CN, CS, OC Liquid & Powder Projectiles
2. .31 caliber Sting-Balls
3. Door Breaching
4. Super Sock Bean Bag

37mm, 38mm and/or 40mm Cartridges – Fired from a 37mm, 38mm or 40mm Launcher:

1. Pyrotechnic, smoke, single projectile
2. Pyrotechnic, smoke, three projectiles
3. Pyrotechnic, CN or CS, single projectile
4. Pyrotechnic, CN or CS, three projectiles
5. Powder or Liquid Barricade - CN, OC, CS Powder projectile
6. Heavy Barricade Projectile – CN, OC, CS Powder projectile
7. Muzzle Blast Projectile – CN, OC, CS
8. Kinetic Projectiles:
  - a. Foam baton
  - b. Rubber baton
  - c. .31 cal. Sting Balls
  - d. .60 cal. Sting Balls
  - e. Wood Baton
  - f. Super Sock Bean Bag
9. Pyrotechnic 40mm Cartridges – Smoke, CN or CS
10. Liquid Barricade Projectile 40mm cartridges – CN, CS or OC (Spin Stabilized)
11. Kinetic Projectile 40mm cartridges:
  - a. Sponge, Spin Stabilized
  - b. Foam Baton, Multi
  - c. .31 cal. Sting Balls
  - d. .60 cal. Sting Balls
  - e. Wood Baton, Multi
12. Powder Barricade Projectile 40mm cartridges:
  - a. CS or OC
13. Kinetic Projectile 4

## **Manufacturer: Def-Tec (Defense Technology):**

### **12-gauge Projectiles:**

1. Liquid Ferret – Non-pyrotechnic (Indoor use) OC, CS, CN
2. Powder Ferret – Non-pyrotechnic (Indoor use) OC, CS CN
3. Stinger – 32 cal. Stinger Rubber balls
4. Bean Bag rounds
5. Fin Stabilized – rubber fin stabilized
6. Drag Stabilized – Bean point of aim, point of impact round

### **37mm & 40mm Projectiles - Pyrotechnic (Outdoor use):**

1. CN or CS Long Range (Speedheat)
2. CN or CS Short Range (Speedheat)
3. Colored Long Range (Speedheat) – smoke
4. Skat Shell – CN, or CS Multiple projectile
5. Flite Rite Heavy Duty Barricade – CN or CS

### **37mm & 40mm Projectiles – Non-Pyrotechnic (Indoor Use):**

1. Muzzle Blast – Powder blast dispersion – OC, CN, CS
2. Liquid Ferret – Liquid barricade penetrator – OC, CN, CS
3. Powder Ferret – Powder barricade penetrator – OC, CN CS

### **37mm – Black Powder Rounds**

1. Stinger – 32 cal. Rubber balls
2. Stinger – 60 cal. Rubber balls
3. Wood Baton
4. Rubber Baton
5. Foam Baton
6. Bean Bag

### **40mm – Smokeless Powder Rounds**

1. Stinger – 32 cal. Rubber balls
2. Stinger – 60 cal. Rubber balls
3. Wood Baton
4. Foam Baton
5. Rubber Baton
6. Bean Bag
7. Sponge – Exact Impact Sponge Round

### **37/40mm – Smokeless Powder**

1. Stinger – 32 cal. Rubber balls
2. Stinger – 60 cal. Rubber balls
3. Wood Baton
4. Foam Baton
5. Bean Bag

**Manufacturer: Less-Lethal.com:**

**12-gauge Projectiles:**

1. 2550 Single Rubber Baton
2. 2581 Sock

**37mm Projectiles**

1. 3581 Sock

**Manufacturer: Alstechnology.com:**

**12-gauge Projectiles:**

1. ALS 1200 Sock
2. ALS1212 Drag Sock

**37mm Projectiles**

1. ALS 3702 Sock
2. ALS 3704 Drag Sock

**Manufacturer: Lightfield Less Lethal:**

**12-gauge Projectiles:**

1. LSSR 12
2. LSLR 12
3. Mid-Range Rubber Slug
4. LERS 12
5. LSSR-HV